

TENNESSEE GENERAL ASSEMBLY  
FISCAL REVIEW COMMITTEE



**FISCAL MEMORANDUM**

**HB 65 – SB 686**

March 18, 2013

**SUMMARY OF ORIGINAL BILL:** Repeals Class E felony for aggravated criminal littering, and creates a new offense of dumping, which is punished the same as theft and requires each offender to remove litter for up to 160 hours. The value, for purposes of grading the offense is determined by the definition of “value” in Tenn. Code Ann. § 39-11-106(a)(36).

Adds a definition of “waste” under Tenn. Code Ann. § 39-14-501.

Exempts charges for “dumping” from the exclusive general sessions jurisdiction in counties with environmental courts.

Adds the “cost or estimated cost of cleaning up the property, whichever is greater” to the definition of “value” under Tenn. Code Ann. § 39-11-106(a)(36).

**FISCAL IMPACT OF ORIGINAL BILL:**

Increase State Expenditures – \$56,000/Incarceration\*

**SUMMARY OF AMENDMENT (004893):** Removes the language “or estimated cost” from Section 5, subdivision (A)(iii).

**FISCAL IMPACT OF BILL WITH PROPOSED AMENDMENT:**

**Unchanged from the original fiscal note.**

Assumptions for the bill as amended:

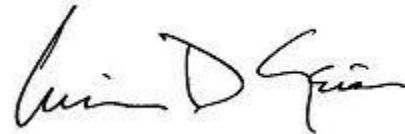
- According to the Department of Environment and Conservation (TDEC), there are approximately 100 violation notices issued by TDEC each year for dumping in amounts exceeding 100 pounds or 30 cubic feet. However, there have been only six convictions over the last five years for aggravated criminal littering according to statistics from the Administrative Office of the Courts (AOC). Under the bill, these offenses would be prosecuted as dumping offenses, rather than aggravated criminal littering.
- Under the bill, dumping is graded like theft, by the cost of cleaning up the waste. Dumping can be prosecuted as follows:

- Class A misdemeanor – \$500 or less;
- Class E felony – \$500 to \$1,000;
- Class D felony – \$1,000 to \$10,000;
- Class C felony – \$10,000 to \$60,000;
- Class B felony – \$60,000 to \$250,000;
- Class A felony – \$250,000 or more.
- It is assumed that the bill would result in one admission for Class D dumping every two years and one admission for Class C dumping every two years.
- According to the Department of Correction (DOC), the average operating cost per offender per day for calendar year 2013 is \$64.17.
- According to the U.S. Census Bureau, population growth in Tennessee has been 1.12 percent per year for the past 10 years, yielding a projected compound population growth of 11.78 percent over the next 10 years. Population growth will not affect the fiscal impact of this legislation.
- The average time served for a Class D felony is 1.80 years
- The maximum cost in the tenth year, as required by Tenn. Code Ann. § 9-4-210, is based on one offender every two years serving 1.80 years (657.45 days) for an annualized total cost of \$21,094  $[(\$64.17 \times 657.45 \text{ days}) / 2]$ .
- The average time served for a Class C felony is 2.98 years.
- The maximum cost in the tenth year, as required by Tenn. Code Ann. § 9-4-210, is based on one offender every two years serving 2.98 years (1,088.45 days) for an annualized total cost of \$34,923  $[(\$64.17 \times 1,088.45 \text{ days}) / 2]$ .
- The total incarceration cost is \$56,017  $(\$21,094 + \$34,923)$ .
- Due to the low number of convictions this bill would create, it is assumed that the courts, district attorneys general, and district public defenders can accommodate any impact to the caseloads within existing resources.

*\*Tennessee Code Annotated § 9-4-210 requires an appropriation from recurring revenues for the estimated operation cost of any law enacted after July 1, 1986 that results in a net increase in periods of imprisonment in state facilities. The amount appropriated shall be based upon the highest cost of the next 10 years.*

## **CERTIFICATION:**

The information contained herein is true and correct to the best of my knowledge.



Lucian D. Geise, Executive Director

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